

**COMMONWEALTH OF KENTUCKY
EXECUTIVE BRANCH ETHICS COMMISSION
CASE NO. 13-02**

**IN RE: BRUCE D. HARPER
ALLEGED VIOLATION OF KRS CHAPTER 11A**

**INITIATING ORDER
Initiation of Administrative Proceeding
And Formal Complaint**

The Executive Branch Ethics Commission (the “Commission”), upon its own motion, initiated a preliminary investigation of Bruce D. Harper (the “Respondent” or “Harper”), pursuant to KRS 11A.080(1), on July 2, 2012, which was expanded on January 28, 2013.

At all relevant times the Respondent was a “public servant” as defined in KRS 11A.010(9), and thus subject to the jurisdiction of the Commission.

The Commission initiated the preliminary investigation to determine whether it has sufficient probable cause to believe the Respondent violated provisions of KRS Chapter 11A, the Executive Branch Code of Ethics (also referred to herein as the “Ethics Code”).

The Commission focused its investigation upon the Respondent’s possible violation of the Ethics Code by using his influence in a matter that involved a substantial conflict between his personal or private interest and his duties in the public interest; influencing a public agency in derogation of the state at large; using his official position to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest; and soliciting donations from private entities for a private conference for activities other than those listed under KRS 11A.055.

The Commission notified the Respondent of the preliminary investigation by

letter dated July 3, 2012, and the expanded investigation on January 30, 2013. During the course of the investigation, the Commission found probable cause to believe that violations of KRS Chapter 11A had occurred and voted on March 18, 2013, to initiate an administrative proceeding, pursuant to KRS 11A.080(4)(b) and KRS Chapter 13B, to determine whether the Respondent violated the Ethics Code as set forth in the Allegations of Violations, attached hereto and incorporated fully herein as Appendix A to this Initiating Order.

IT IS THEREFORE ORDERED that:

1. The Respondent shall file his answer to this Initiating Order within twenty (20) days from the date of service, verifying the truth and accuracy of any answer submitted.

2. The Respondent shall appear at a hearing to be scheduled by subsequent order and be prepared to defend against the Commission's allegations that he committed the Ethics Code violations set forth in the Allegation of Violations, attached hereto and incorporated fully herein as Appendix A to this Initiating Order.

3. A Hearing Officer will be appointed.

4. The Commission is represented by Kathryn H. Gabhart, General Counsel, and John R. Steffen, Executive Director. They may be contacted through the Commission's office at (502) 564-7954.

5. All original material plus one copy shall be submitted to the Executive Branch Ethics Commission, #3 Fountain Place, Frankfort, Kentucky 40601.

6. Once a Hearing Officer is appointed, a copy of all materials shall be served on the designated Hearing Officer as well.

7. The Respondent has the right to legal counsel during this proceeding. If the Respondent retains legal counsel, that person shall file an appearance with the Commission, and thereafter all correspondence from the Commission to the Respondent shall be mailed or delivered to the Respondent's attorney.

8. The Respondent has the right to examine upon request, at least five (5) days prior to the hearing, a list of witnesses the Commission expects to call at the hearing, any evidence that will be used at the hearing and any exculpatory information in the Commission's possession.

9. The Respondent has the right to subpoena witnesses on his own behalf. If the Respondent subpoenas witnesses, he shall pay for all costs associated with the subpoenas' issuance, including any applicable witness fees.

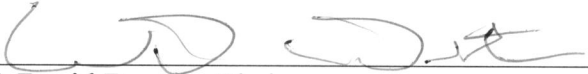
10. If the Respondent fails to attend or participate as required at any stage of the administrative hearing process without good cause shown, he may be held in default pursuant to KRS 13B.050(3)(h).

11. The Respondent has a right to appeal any final Commission order to the Franklin Circuit Court within thirty (30) days of service.

12. This proceeding is subject to KRS Chapter 11A, the Commission's regulations, the provisions of KRS Chapter 13B, and any Order issued by the Commission or its hearing officer issued during this administrative proceeding.

So ordered this 18th day of March 2013.

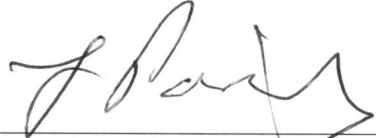
EXECUTIVE BRANCH ETHICS COMMISSION:



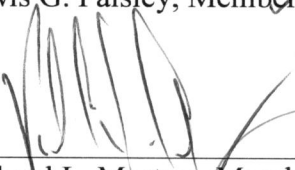
W. David Denton, Chair



William G. Francis, Vice-Chair



Lewis G. Paisley, Member



Richard L. Masters, Member



Martin E. Johnstone, Member

**APPENDIX A
CASE NO. 13-02
INITIATING ORDER**

ALLEGATION OF VIOLATIONS

The Respondent, Bruce D. Harper, was at all relevant times an employee of the Commonwealth of Kentucky, serving in the Department of Agriculture. As such, the Respondent was subject to the jurisdiction of the Commission. KRS 11A.010(9)(h).

During the course of its preliminary investigation, the Commission found probable cause to believe that Bruce D. Harper committed the following violations:

COUNT I

Bruce D. Harper, during his course of employment as Director of Outreach and Development, Department of Agriculture, used or attempted to use any means to influence a public agency in derogation of the state at large; used his official position to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest; and solicited donations from private entities for a private conference for activities other than those listed under KRS 11A.055.

Specifically, from 2007 through 2008, Harper solicited donations for the Southern Association of State Departments of Agriculture (“SASDA”) conference to be held in Kentucky in 2008 from entities that the Department regulated, from entities with which the Department had a business relationship, and from entities that represented groups that the Department regulated. SASDA was not an IRS Section 501(c)(3) recognized entity, and the SASDA conference was not conducted for crime prevention, for drug and alcohol abuse prevention, or for a traffic safety program.

These facts constitute violations of KRS 11A.020(1)(b) and (d), and KRS 11A.055.

KRS 11A.020(1)(b) and (d) provide:

(1) No public servant, by himself or through others, shall knowingly:

(b) Use or attempt to use any means to influence a public agency in derogation of the state at large;

(d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

KRS 11A.055 provides:

(1) Any provision of KRS Chapter 11A to the contrary notwithstanding, a state agency or a public servant may raise funds, either individually or as a department or agency, for a charitable nonprofit organization granted a tax exemption by the Internal Revenue Service under Section 501c of the Internal Revenue Code without violating the provisions of this chapter. Raising of funds shall include but not be limited to holding events for the benefit of the charitable organization, contacting potential donors, providing prizes, and engaging in other forms of fundraising and providing the funds thus raised to the charitable organization.

(2) Any provision of KRS Chapter 11A to the contrary notwithstanding, a state agency or a public servant may raise funds, either individually or as a department or agency, for crime prevention, drug and alcohol abuse prevention, and traffic safety programs without violating the provisions of this chapter. Raising of funds shall include but not be limited to holding events for the benefit of a program specified in this section, contacting potential donors, providing prizes, and engaging in other forms of fundraising and providing the funds thus raised to the program.

COUNT II

Bruce D. Harper, during his course of employment as Director of Outreach and Development, Department of Agriculture, used or attempted to use any means to influence a public agency in derogation of the state at large; and used his official position to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest.

Specifically, some time between April 30, 2010, and May 15, 2010, Harper interfered with the enforcement and penalty procedures of the Office of the State Veterinarian by

instructing Department employees to probate a \$200 fine to zero for a farmer who had violated the dead animal disposal laws. Harper did so because the farmer had contacted his state representative who, in turn, contacted Harper to pressure the Department to remove the fine. Harper instructed Department employees to take no further action against the farmer even though the farmer had been given two opportunities to submit to the requirements of the law and had failed to cooperate with the Department.

These facts constitute violations of KRS 11A.020(1)(a), (b), and (d).

KRS 11A.020(1)(a), (b), and (d) provide:

- (1) No public servant, by himself or through others, shall knowingly:
 - (a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;
 - (b) Use or attempt to use any means to influence a public agency in derogation of the state at large;

 - (d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

COUNT III

Bruce D. Harper, during his course of employment as Director of Outreach and Development, Department of Agriculture, used or attempted to use any means to influence a public agency in derogation of the state at large; and used his official position to secure or create privileges, exemptions, advantages, or treatment for others in derogation of the public interest.

Specifically, between February and June 2011, Harper attempted to interfere with the enforcement and penalty procedures of the Division of Regulation and Inspection, Grain Regulation Branch, on behalf of a grain dealer that was a political contributor. Harper instructed a Department employee to hold a \$3,000 penalty check submitted by a grain dealer, even though the grain dealer had already entered into an Agreed Order of Settlement to pay a fine of \$3000,

reduced from the \$30,000 fine that the Grain Regulation Branch had originally issued against the grain dealer, for violating Kentucky's grain law. Harper instructed Department employees to not deposit the check, as would have been the normal course of business for the Grain Regulation Branch upon receiving a penalty check, but to hold the check until he could come to the Branch offices and take possession of the check, with the intention of circumventing the check's deposit.

These facts constitute violations of KRS 11A.020(1)(a), (b), and (d).

KRS 11A.020(1)(a), (b), and (d) provide:

- (1) No public servant, by himself or through others, shall knowingly:
 - (a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;
 - (b) Use or attempt to use any means to influence a public agency in derogation of the state at large;

 - (d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

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